

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

MAY 2008

Franchise and Income Tax
NEW CASES
May 2008

Case Name

Court/Case Number

NONE

CLOSED CASES
May 2008

Case Name

Court/Case Number

NONE

Please refer to the case roster for more detail regarding new and closed cases

Franchise and Income Tax
LITIGATION ROSTER
May 2008

BATES, ALEX, et al. v. Franchise Tax Board, et al.

Los Angeles Superior Court Case No. BC 287896
Court of Appeal, Second Appellate District Case No. B169940
Plaintiffs' Counsel
Derek L. Tabone
Law Offices of Tabone, APC

Filed – 04/14/03
BOE's Counsel
Brian Wesley
BOE Attorney
Jeff Angeja

Issue(s): This lawsuit deals with a nonfiling Franchise and Income Tax (FIT) appellant's contentions that the BOE does not comply with the Information Practices Act (IPA). Based upon the alleged violations of the IPA, plaintiffs request preliminary and permanent injunctions against all defendants to restrain them from violating the provisions of the IPA.

Audit/Tax Period: None

Amount: Unspecified

Status: At the hearing on December 3, 2007, the Court granted BOE's and FTB's Motion for Stay of this case pending the Court of Appeal decision in *Ballmer v. Franchise Tax Board*. Status conference re: Stay is scheduled for July 30, 2008.

SCHROEDER, DONNIE v. State Board of Equalization, et al.

USDC, Eastern Dist. CA 2:08-CV-0803- MCE KJM PS

Plaintiff's Counsel
Donnie Schroeder
In pro per

Filed – 04/15/08
BOE's Counsel
Robert E. Asperger
BOE Attorney
Robert J. Stipe

Issue(s): This case involves the non-filer plaintiff's contentions that he was erroneously denied a jury trial and due process by the FTB and BOE in the protest and appeals process that affirmed the FTB's proposed assessments for unspecified years. The issues in this case are whether the plaintiff's suit is barred as a pre-payment suit ([California Constitution, Article 13, section 32](#); [Revenue and Taxation Code, section 19381](#)); whether his complaint is barred by the Eleventh Amendment of the United States Constitution as a suit against a state or its agencies in the absence of an unequivocal consent to a waiver of immunity ([Yakama Indian Nation v. State of Wash. Dept. of Revenue \(9th Cir. 1999\) 176 F.3d 1241, 1245](#)); and whether the United States District Court's jurisdiction over the case is barred by the federal Tax Injunction Act ([28 U.S. Code, section 1341](#)).

Audit/Tax Period: None

Amount: \$10,000,000.00

Status: BOE's Motion to dismiss filed May 7, 2008. Hearing on the Motion is scheduled for June 18, 2008.

TYLER-GRIFFIS, PATRICIA v. State Board of Equalization

Court of Appeal, Third Appellate District: C056745

Sacramento Superior Court Case No. 07CS00449

Plaintiff's Counsel

William E. Taggart, Jr.

Taggart & Hawkins

Filed – 04/11/07

BOE's Counsel

Jeff Rich

BOE Attorney

Ian Foster

Issue(s): Whether the taxpayer is entitled to relief as an innocent spouse; whether innocent spouse cases are subject to the “pay now, litigate later” rule; whether the BOE is the proper agency to sue ([Revenue and Taxation Code section 18533](#); [Appeal of Patricia Tyler-Griffis, 2006-SBE-004, \(Dec. 12, 2006\)](#)).

Audit/Tax Period: 1984

Amount: Unspecified

Status: All briefing on appeal has been filed; awaiting the scheduling of oral argument.

DISCLAIMER

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